



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

MKC
F. #2019R01502

*610 Federal Plaza
Central Islip, New York 11722*

November 27, 2020

By Hand Delivery and ECF

Tracey Gaffey, Esq.
Federal Defenders of NY, Inc.
770 Federal Plaza
Central Islip, New York 11722

Re: United States v. Andrew Frey
Criminal Docket No. 19-537(DRH)

Dear Ms. Gaffey:

The below confirms the government's discovery production in accordance with Rule 16 of the Federal Rules of Criminal Procedure to date. The government also requests reciprocal discovery from the defendant.

I. The Government's Discovery Produced November 22, 2019

A. Statements of the Defendant

- AF-000001: Defendant's Post Arrest Interview
- AF-000028: Signed Advice of Rights

B. The Defendant's Criminal History

- AF-000029-39: Criminal History Repository for NYSID Number 05003900R.

C. Documents and Tangible Objects

- AF-000002-13: Cell Site Tower Information from T-Mobile Phone Number 516-318-6656

- AF-000016-27: T-Mobile Subscriber and Call Detail Records associated with phone number 516-318-6656
- AF-000040-44: Evidence Collection Log from the Search of the Defendant's Vehicle
- AF-000045: Contents of Defendant's Cell Phone with phone number 516-318-6656
- AF-000014-15: Photographs of the defendant following his arrest

II. The Government's Discovery Produced January 24, 2020

A. Documents and Tangible Objects

- AF-000046-172: Copies of Vehicle Detection Reports maintained by the Suffolk county Police Department;
- AF-000173-193: Copies of documents maintained by PayPal;
- AF-000194-211: Copies of Vehicle Detection Reports maintained by MTA Bridges and Tunnels;
- AF-000212 – 217: Copies of Vehicle Detection Reports maintained by the NYS Police;
- AF-000218-223: Redacted copy of an attempted firearm purchase by defendant;
- AF-000224-225: Photographs of injuries sustained by Jane Doe #1
- AF-000331-435: Photographs from the search of defendant's residence;
- AF-000436-619: Photographs from the search of defendant's vehicle;
- AF-000620-689: Copies of Defendant's timecards maintained by Sage Parts for the time period of January 1, 2015 – November 30, 2019; and

- AF-000690¹: Copies of documents maintained by Western Union.

III. The Government's Discovery Produced March 3, 2020

A. Documents and Tangible Objects

- AF-000690-802: Copies of documents maintained by Paypal related to the defendant's Paypal Account; and
- AF-000803: Contents of Defendant's Cell Phone with phone number 516-318-6656 produced on the Cellbrite Mobile Synchronization Platform.

IV. The Government's Discovery Produced March 13, 2020

A. Documents and Tangible Objects

- AF-000804 - AF-005547: Contents of the Facebook Account RangerUp12
- AF-0005548 - AF-005565: Documentation Regarding Defendant's Beach Permit;
- AF-005566: Composite Sketch produced from Jane Doe #1's description of the defendant;
- AF-005567: Photo Array wherein Jane Doe #1 identified the defendant;
- AF-005568: Photo of a scar resulting from Jane Doe #2's injuries;
- AF-005569 – AF-005570: GPS Tracking Warrant dated November 8, 2019
- AF-005571 – AF-005583: Redacted Affidavit in Support of GPS Tracking Warrant dated November 8, 2019
- AF-005584 – AF-005589: Cell Site Warrant dated November 12, 2019
- AF-005590 – AF-005613: Redacted Affidavit in Support of Cell Site Warrant dated November 12, 2019

¹ Because the Bates Number AF-000690 was inadvertently assigned to two items, a duplicate of these records have been reproduced as Bates Number AF-0007338.

- AF-005614 – AF-005619: Pen Register Order dated November 12, 2019
- AF-005620 – AF-005624: Warrant for Subject Vehicle dated November 14, 2019
- AF-005625 – AF-005629: Warrant for Subject Premises dated November 14, 2019
- AF-005630 – AF-005634: Warrant for Subject Telephone dated November 14, 2019
- AF-005635 – AF-005672: Redacted Affidavit in support of warrant for Subject Telephone, Subject Vehicle, Subject Premises dated November 14, 2019
- AF-005673 – AF-005751 : Redacted Affidavit in support of warrant for Subject Vehicle and Biometrics dated November 15, 2019
- AF-005752 - 005757: Warrant for Subject Vehicle dated November 15, 2019
- AF-005758 – AF-005766: Warrant for Biometrics dated November 15, 2019
- AF-005767 – AF-005770: Warrant for review of Joying System dated November 22, 2019
- AF-005771 – AF-005795: Affidavit in Support of warrant for review of Joying System dated November 22, 2019
- AF-005796 – AF-005829: Affidavit in Support of Warrant for Review of Electronic Devices and Camera dated November 22, 2019
- AF-005830 – AF-005835: Warrant for Review of Electronic Devices dated November 22, 2019
- AF-005836 – AF-005839: Warrant for Review of Camera dated November 22, 2019
- AF-005840 – AF-005859 - Contents of a MicroSD Card recovered from the defendant's home on November 15, 2019
- AF-005873 – AF-005877 – Warrant for the Person of Andrew Frey, Date of Birth 09/23/1965 dated November 14, 2019

- AF-007338: Copies of documents maintained by Western Union.²

B. Reports of Examinations and Test

- AF-005860 – AF-005862: Laboratory Report regarding pills found in the Defendant's Vehicle
- AF-005863 – AF-005866: Photos of the Defendant's Vehicle
- AF-005867 – AF-005870: Log of Evidence recovered from Defendant's AF-Home
- AF-005871 – AF-005872: Receipt from Action Auto Wreckers regarding work performed on the Defendant's vehicle

C. Statements of the Defendant

- AF-005878: Phone calls defendant placed from MDC and MCC between November 20, 2019 and March 7, 2020
- AF-005878 – AF-007337: Emails defendant sent from MDC and MCC between November 18, 2019 and March 4, 2020

V. The Government's Discovery Produced November 27, 2020³

A. Documents and Tangible Objects

- AF-007339 - AF-212950: Contents of the Acer laptop with hard drive;
- AF-212951-AF-212970: Contents of a MicroSD card;
- AF-212971-AF-459326: Contents of a silver HP Laptop;
- AF-459327-AF-491227: Contents of 16 SD cards; and
- AF-491228-AF-493358: Contents of 12 SD Cards.

² These records were previously produced under Bates Number AF-000690, an identifier that was subsequently applied to a second item due to clerical error. Accordingly, these records are being reproduced under the revised Bates Number AF-0007338 so that they might have a unique identifier.

³ As previously discussed with defense counsel, these materials have been available at the government's offices for review since March 5, 2020.

You may examine the physical evidence discoverable under Rule 16, including original documents and devices identified above, by calling me to arrange a mutually convenient time.

A. Reports of Examinations and Test

The government will provide you with copies of any additional reports of examinations or tests in this case as they become available.

B. Expert Witnesses

The government will comply with Fed. R. Crim. P. 16(a)(1)(G) and Fed. R. Evid. 702, 703 and 705 and notify you in a timely fashion of any expert that the government intends to call at trial and provide you with a summary of the expert's opinion.

At present, the government anticipates calling an expert at trial to testify that regarding the forensic analysis of the defendant's electronic devices as well as cell site data obtained from the defendant's cell phones.

The identity, qualifications, and bases for the conclusions of each expert will be provided to you when they become available.

C. Brady Material

The government is not aware of any exculpatory material regarding the defendant. The government understands and will comply with its continuing obligation to produce exculpatory material as defined by Brady v. Maryland, 373 U.S. 83 (1963), and its progeny.

Before trial, the government will furnish materials discoverable pursuant to Title 18, United States Code, Section 3500, as well as impeachment materials. See Giglio v. United States, 405 U.S. 150 (1972).

D. Other Crimes, Wrongs or Acts

The government will provide the defendant with reasonable notice in advance of trial if it intends to offer any material under Fed. R. Evid. 404(b).

VI. Future Discussions

If you have any questions or requests regarding further discovery or a disposition of this matter, please do not hesitate to contact me.

Please be advised that, pursuant to the policy of the Office concerning plea offers and negotiations, no plea offer is effective unless and until made in writing and signed by authorized representatives of the Office. In particular, any discussion regarding the pretrial disposition of a matter that is not reduced to writing and signed by authorized

representatives of the Office cannot and does not constitute a “formal offer” or a “plea offer,” as those terms are used in Lafler v. Cooper, 132 S. Ct. 1376 (2012), and Missouri v. Frye, 132 S. Ct. 1399 (2012).

Very truly yours,

SETH D. DUCHARME
Acting United States Attorney

By: /s/ Monica Castro
Monica Castro
Assistant U.S. Attorney
(631) 715-7894

Enclosures

cc: Clerk of the Court (DRH) (by ECF) (without enclosures)